

Message Text

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ACTION EB-07

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TO WHITE HOUSE IMMEDIATE
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C O N F I D E N T I A L SECTION 01 OF 03 LONDON 10099

WHITE HOUSE FOR JOHNSTON, NSC (DEAL)
STATE FOR E, EB
PASS DOT (ADAMS, DAVENPORT, KAMM), CAB (KAHN, RODRIGUEZ)

E.O. 11652: GDS
TAGS: EAIR, UK
SUBJECT: US-UK CIVAIR NEGOTIATIONS: REPORT ON JUNE 18

1. LONDON 10095 GAVE SUMMARY OF JUNE 18 MEETINGS,
AND ASSESSMENT OF STATUS. MORE DETAILED REPORT ON
JUNE 18 MTGS FOLLOWS.
2. JUNE 18 TALKS COVERED CAPACITY ARTICLE (US RENEG 13,
UK RENEG 48) CAPACITY PROCEDURES (US RENEG 8, REV VI,
RELAYED IN LONDON 9843), PACIFIC ROUTES, CHARTER
LINKAGE (US RENEG 59, REV III, RELAYED IN LONDON 10092).
3. UK CONTINUES TO EXPRESS GRAVE CONCERN OVER US NOTE 1
TO ROUTE ANNEX (NOTE 1 IN US RENEG 56, WHICH GIVES US
UNLIMITED BLIND SECTOR RIGHTS BEYOND LONDON, HONG KONG).
UK SEES NOTE 1 COMBINED WITH ON BOARD PASSENGER COUNT AS
OPPOSED TO "FLIGHT UPLIFT AND DISCHARGE" (FUD) COUNT AS
PERMITTING US CARRIERS TO PROVIDE CAPACITY (FREQUENCIES)
THRU LONDON FAR BEYOND ABILITY OF BRITISH AIRLINES TO
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MEET OR EXCEED. UK BELIEVES US AIRLINES CAN MOUNT MORE
FREQUENCIES, SUPPORTED BY TRANSIT TRAFFIC, AND USE THESE
FREQUENCIES TO GAIN LARGER US-UK MARKET SHARE. UK
MATCHING OF FREQUENCIES WOULD NOT BE, IN UK VIEW,
VIAABLE; THEREFORE US CARRIERS WOULD HAVE COMPETITIVE
ADVANTAGE.

4. CAPACITY ARTICLE

A. US DEL HAD PREVIOUSLY REJECTED UK RENEG 48. YESTERDAY UK RAISED QUESTIONS ABOUT TREATMENT OF PROPOSED EXCLUSIVE MARKETS HOUSTON, ATLANTA. UK 48 HAD PROPOSED REQUIREMENT THAT AT END OF EXCLUSIVE PERIOD 1ST CARRIER BE REQUIRED TO REDUCE SERVICE, OR AT LEAST MAINTAIN THEN EXISTING LEVEL FOR PERIOD NECESSARY TO PERMIT 2ND CARRIER TO EQUAL FREQUENCIES. (SAME CONCEPT WOULD APPLY, IN UK VIEW, ON PACIFIC ROUTES ON WHICH CATHAY PACIFIC (CX) MIGHT NOT OPERATE FOR SOME YEARS-- WHEN CX READY TO COME ON ROUTES, US CARRIER(S) SHOULD CUT BACK OR AT LEAST FREEZE CAPACITY TO PERMIT CX COMPETITIVE OPPORTUNITY.)

B. US DEL REITERATED NO POSSIBILITY EXISTED TO REQUIRE CUTBACK OF EXISTING SERVICES. STATED THAT EFFORT WOULD BE MADE TO DEVELOP RATIONALE SUPPORTING REQUIREMENT TO MAINTAIN STATUS QUO OF ORIGINAL CARRIER FOR A PERIOD TO ENABLE 2ND CARRIER TO REACH CAPACITY MATCH.

C. UK DEL EXPRESSED CONCERN ABOUT WORDING OF US RENEG 13, SUBPARA E. WAS ADVISED LANGUAGE REPRESENTED CURRENT US STANDARD FORM CAPACITY ARTICLE.

5. CAPACITY PROCEDURES

A. AT OPENING OF MTG, US DEL PROPOSED NEW SENTENCE AT END OF PARA NUMBER 1: "IF SUCH ADJUSTMENTS INCLUDE AN INCREASE IN FREQUENCY, SUCH INCREASE SHALL BE SUBJECT TO THE APPROVAL OF THE OTHER CONTRACTING PARTY."

B. US DEL PROPOSED THAT PARA 4 BE CHANGED TO CONFIDENTIAL

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READ: "IF NO AGREEMENT IS REACHED IN CONSULTATIONS HELD PURSUANT TO PARA 3 ABOVE, EACH DESIGNATED AIRLINE ON THE GATEWAY ROUTE SEGMENT WHERE AN INCREASE IN FREQUENCY OF SERVICE HAS BEEN CALLED INTO QUESTION SHALL BE ENTITLED TO OPERATE DURING THE UPCOMING TRAFFIC SEASON THE SCHEDULE IT PROPOSED TO OPERATE BUT NOT MORE THAN THE SUM OF (A) THE TOTAL NUMBER OF ROUNDTRIP COMBINATION FREQUENCIES OPERATED BY THAT AIRLINE ON THE GATEWAY ROUTE SEGMENT DURING THE PREVIOUS CORRESPONDING SEASON; AND (B) SUCH ROUNDTRIP COMBINATION FREQUENCIES AS ARE DETERMINED BY APPLYING THE AVERAGE OF THE FORECAST PERCENTAGE MENTIONED IN PARA 3 ABOVE TO THE TOTAL NUMBER OF ROUNDTRIP COMBINATION FREQUENCIES OPERATED BY THAT DESIGNATED AIRLINE DURING THE PREVIOUS CORRESPONDING SEASON, BUT NO FEWER THAN 30 ROUNDTRIP COMBINATION FREQUENCIES DURING A SUMMER TRAFFIC SEASON OR 22 DURING A WINTER TRAFFIC SEASON. IN NO EVENT SHALL A DESIGNATED AIRLINE BE REQUIRED TO OPERATE FEWER THAN 150 ROUNDTRIP

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COMBINATION FREQUENCIES DURING A SUMMER TRAFFIC SEASON
OR 88 DURING A WINTER TRAFFIC SEASON. A DESIGNATED
AIRLINE WHICH BY VIRTUE OF THE OPERATION OF THIS
PARAGRAPH WOULD OPERATE FEWER FREQUENCIES THAN ANY OF
ITS COMPETITORS ON THE GATEWAY ROUTE SEGMENT MAY
MATCH UP TO THE NUMBER OF FREQUENCIES TO WHICH ANY OF
ITS COMPETITORS IS ENTITLED."

C. US DEL SUGGESTED 4TH SENTENCE, PARA 7, BE
CHANGED TO READ: "IF SUCH SEAT FACTOR WAS NOT ACHIEVED
BY A MARGIN OF MORE THAN 10 PERCENTAGE POINTS, THAT
DESIGNATED AIRLINE MAY NOT, UNLESS THE CONTRACTING
PARTIES OTHERWISE AGREE, OPERATE MORE ROUNDTRIP
COMBINATION FREQUENCIES ON THE GATEWAY ROUTE SEGMENT
IN THE NEXT CORRESPONDING SEASON THAN THE NUMBER OF
ROUNDTRIP COMBINATION FREQUENCIES OPERATED BY IT DURING
THE CORRESPONDING SEASON PRECEDING THE SEASON THAT WAS CALLED INTO QUE
STION."

D. US DEL SUGGESTED FOLLOWING INSERT BEFORE LAST
SENTENCE PARA 7: "AND (D) ANY DESIGNATED AIRLINES ON A
ROUTE SEGMENT WHERE A DESIGNATED AIRLINE
EXERCISED ITS RIGHT TO MATCH UP TO THE NUMBER OF
FREQUENCIES OF ANY COMPETITORS UNDER THE PROVISIONS OF
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PARA 4."

E. DURING ENSUING DISCUSSION UK DEL STATED COMPLETE UNWILLINGNESS TO ACCEPT CONCEPTS EXPRESSED IN 2ND PARA OF PREAMBLE. SUBSEQUENTLY SUGGESTED DELETION OF PARA 2, DELETION OF MINIMUM FREQUENCIES PROVIDED IN PARA 4, DELETIONS OF PARAGRAPHS 5 AND 7.

F. US DEL COUNTERED WITH ABBREVIATED LANGUAGE FOR 2ND PARA OF PREAMBLE; PROPOSED TO DROP ABILITY TO MATCH FREQUENCIES; REDUCTION IN MINIMUM FREQUENCY TO 120 SUMMER, WHILE CONTINUING 88 WINTER; REDUCTION OF MINIMA UNDER PARA 4(B) TO 20 SUMMER, 15 WINTER; DELETION OF PARA 5, 7; PROVISION FOR 2 YEAR EXTENSION OF 5 YEAR CAPACITY PROCEDURE IF PARTIES COULD NOT REACH AGREEMENT IN REVIEW AFTER 5 YEARS. (REV VII OF US 8 WILL INCORPORATE THESE CHANGES, BE RELAYED IN SEPTTEL.)

G. UK DEL MAY BE CLOSE TO ACCEPTING US PROPOSAL. HOWEVER, BROUGHT UP PROBLEM OF CONCORDE IN CAPACITY CONTEXT. WITH INTENDED CONCORDE SCHEDULES, BRITISH AIRWAYS (BA) WILL HAVE CONSIDERABLY MORE FREQUENCIES THAN US COMPETITORS AT JFK AND DULLES. BA FEARS APPLICATION OF CAPACITY PROCEDURES (I.E., MATCHING FREQUENCIES PROVISION) WOULD ALLOW US CARRIERS TO PROVIDE GROSSLY EXCESSIVE CAPACITY IN MARKET, OR COULD RESULT IN SEVERE PENALTIES TO BA.

H. US DEL STATED UNDERSTANDING, SYMPATHY. SAID UK HAS ENOUGH TROUBLE WITH CONCORDE, WILL FIND SOME WAY TO DEAL WITH CAPACITY ASPECT OF CONCORDE PROBLEM.

I. UK ALSO CONCERNED ABOUT BA ABILITY TO COMPETE AGAINST 2 US CARRIERS IN LA-LON MARKET.

J. CAPACITY DISCUSSIONS TO CONTINUE 19 JUNE.

6. PACIFIC ROUTES

A. UK EXPRESSED NEED FOR VIABLE ROUTE FOR CATHAY PACIFIC (CX). SAID US PROPOSED RESTRICTIONS ON UK ROUTE 2 (IN US RENEG 55) TOO GREAT. DROPPED REQUEST FOR NEW YORK ON UK ROUTE 2.

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B. US RESPONSE WAS (I) TO DROP NOTE 1 TO UK ROUTE 2 (REQUIREMENT THAT FLIGHTS SERVING BOTH JAPAN AND CONTINENTAL US STOP AT HONOLULU OR VANCOUVER), (II) TO PERMIT CX TO COMBINE TWO US WEST COAST POINTS ON ANY FLIGHT. US OFFER CONTINGENT ON UK ACCEPTING US ROUTE 2,

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LESS INDONESIA, MALAYSIA, AND US ALL-CARGO ROUTE 2.

C. BITTER COMMENTS FOLLOWED FROM HKG REPS. AFTER
HAVING CHANCE TO VENT THEIR SPLEEN, HKG REPS WERE
DISMISSED FROM MTG BY SHOVELTON.

D. WILL DISCUSS PACIFIC ROUTES FURTHER SUNDAY;
MAY REACH AGREEMENT.

7. CHARTER LINKAGE

A. US PROVIDED NEW VERSION OF US CHARTER LINKAGE
PAPER (US RENEG 59, REV III, RELAYED IN LONDON 10092).
REV III HAD ATTEMPTED TO MELD US, UK POSITIONS.

B. UK HAD DIFFICULTY WITH WORDING. STATED
IMPOSSIBILITY OF AUTOMATIC MOVEMENT TO COUNTRY-OF-ORIGIN
RULES IN EVENT OF FAILURE TO REACH CHARTER AGREEMENT.
THIS WOULD BE DIRECT VIOLATION OF COMMITMENTS
TO EUROPEAN CIVIL AVIATION CONF.

C. BOTH SIDES TO REDRAFT OVERNIGHT. (US REDRAFT
TO BE RELAYED IN SEPTTEL.)

8. DESIGNATION

A. TRANSITIONAL PROBLEM HAS ARISEN. UK FELT
DESIGNATION OF 2 US CARRIERS AT ONLY 2 POINTS WOULD OCCUR
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WITH SIGNING OF AGREEMENT. NOW UNDERSTAND THERE MAY BE
AS MANY AS 4 SUCH POINTS THRU SUMMER 1978. (CF. US

RENEG 44.)

B. UK CONCERN IS LEGITIMATE. US DEL ATTEMPTING
TO FIND REASONABLE SOLUTION.

9. TALKS TO RESUME SUNDAY, JUNE 19 AT 1030.

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